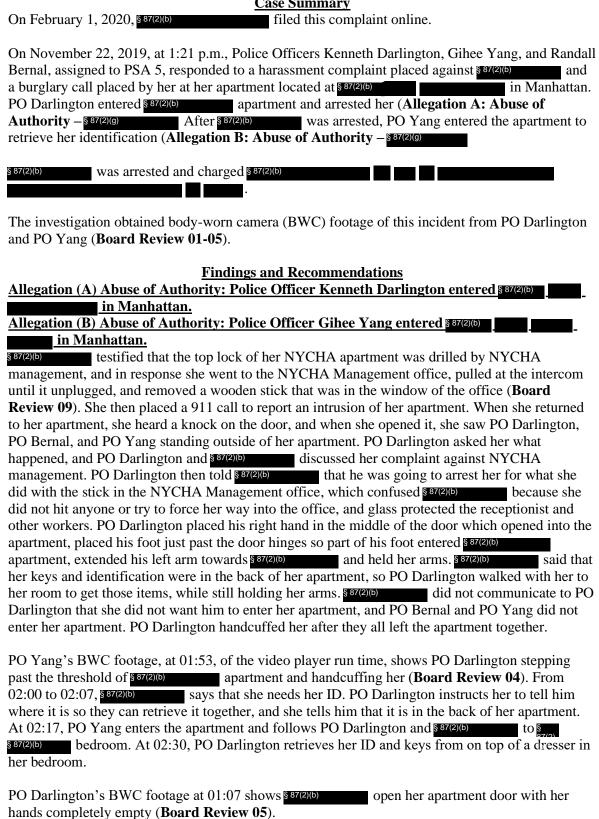
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	U.S.
Adip Vora		Squad #1	202000898	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Friday, 11/22/2019 1:21 PM		§ 87(2)(b)		23	5/22/2021	1/6/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	Received at CCF	RB
Sat, 02/01/2020 12:43 PM		CCRB	On-line website	Sat, 02/01/	2020 12:43 PM	
Complainant/Victim	Type	Home Addre	ss			
Subject Officer(s)	Shield	TaxID	Command			
1. POF Gihee Yang	20180	962881	PSA 5			
2. POM Kenneth Darlington	14509	960422	PSA 5			
Witness Officer(s)	Shield No	o Tax No	Cmd Name			
1. POM Randall Bernal	21129	967773	PSA 5			
Officer(s)	Allegatio	n		Inve	stigator Recon	nmendation
A.POM Kenneth Darlington	Abuse: Police Officer Kenneth Darlington entered in Manhattan.					
B.POF Gihee Yang	Abuse: Police Officer Gihee Yang entered in Manhattan.					

Case Summary



PO Darlington testified that he responded to a call from the NYCHA Management office about an

According to <u>Payton v. New York, 445 U.S. 573</u>, absent exigent or emergency circumstances, warrantless entries into a home are presumptively unreasonable and, when effectuating an arrest, the threshold of the home may not reasonably be crossed without a warrant (**Board Review 12**).

According to <u>People v. McBride</u>, 14 N.Y.3d 440, an urgent need must be present to justify a warrantless entry (**Board Review 14**). The factors used in determining this include: 1) the gravity or violent nature of the offense with which the subject is to be charged, 2) whether the subject is reasonably believed to be armed, 3) a clear showing of probable cause to believe the suspect committed the crime, 4) strong reason to believe the suspect is in the premises being entered, 5) a likelihood that the suspect will escape if not swiftly apprehended, and 6) the peaceful circumstances of the entry.

According to <u>People v. Gonzales</u>, 111 A.D.3d 147, closing a door is not akin to fleeing and an individual cannot flee into their home if they do not leave the interior of their home (**Board Review 13**).

According to <u>People v. Satornino</u>, 153 A.D.2d 595, implied consent to enter a home can be established by conduct as well as words (**Board Review 15**).

It is undisputed that PO Darlington entered \$87(2)(b) home in order to arrest her and did not have a warrant.

§ 87(2)(g)

§ 87(2)(g)			
§ 87(2)(g)			
		and Officer CCRB Histories	
• § 87(2)(b)	oard Review 06).	in two other CCRB investigation	n and has been a victim in
00th (B	§ 87(2)(b)		
PO Dar	lington has been a men	nber of service for five years. He	has been a subject in two
		6 and 201901577; no allegations	
	-	of premises allegation.	
	ng has been a member c she has been a subject.	of service for four years. This is the	ie first CCRB complaint to
	· ·	of service for two years. This is t	the first CCRB complaint to
	ne has been a subject.	of service for two years. This is	no mot certa complaint to
C 07/0V/L	· · · · · · · · · · · · · · · · · · ·	ion, Civil and Criminal Historic	<u>es</u>
• § 87(2)(b)	declined to med §§ 86(1)(3)&(4)] [§ 87(2)(c)]	liate this complaint.	
[3 5 (-)(-)]	33 (-)(-)-(-)/1 (3 (-)(-)/1		
• As of S	eptember 10, 2021, the	New York City Office of the Cor	mptroller has no record of a
Notice	of Claim being filed in	regards to this complaint (Board	Review 08).
Squad No.:	1		
Investigator:	Inv. Vora		10/19/2021
	Signature	Print Title & Name	Date
	•		
Canad I and a	Man Toy, A11-		11 0 21
Squad Leader: _	Mgr. Joy Almeyda Signature	Print Title & Name	11.9.21 Date

Reviewer:			
	Signature	Print Title & Name	Date